



INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

We Protect Hoosiers and Our Environment.

Mitchell E. Daniels, Jr.

Governor

Thomas W. Easterly

Commissioner

100 North Senate Avenue
Indianapolis, Indiana 46204
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Toll Free (800) 451-6027
www.idem.IN.gov

Date: May 4, 2009

To: Interested Parties

From: Bruce H Palin *BHP*
Assistant Commissioner
Office of Land Quality

Subject: Concentrated Animal Feeding Operation Permits

The Indiana Department of Environmental Management (IDEM) is notifying Union-Go Dairy, LLC, that they have satisfied the requirements to receive coverage under an Individual National Pollution Discharge Elimination System (NPDES) permit modification. The permit authorizes the construction of a new manure and wastewater storage system, a new freestall barn and the assessment and potential renovation of the existing manure storage system. The dairy will have an approved capacity of 1,972 dairy cows.

Please find enclosed a copy of the notice of decision and a responsiveness summary to comments that was prepared based on questions and concerns received by IDEM relative to the operation. Copies of the individual NPDES permit and briefing memo can be viewed at the following agency web site: <http://www.IN.gov/idem/4852.html> or in IDEM's Virtual File Cabinet.

If you have any questions relative to the notice please contact Mr. Daniel Bruggen at (317) 233-3554, or toll free at (800) 451-6027, extension 03-3554.

Please bring this matter to the attention of persons you believe may have an interest in it.

Enclosures: Notice of Decision

Responsiveness Summary to Comments

cc: Tony Goltstein- Union-Go Dairy, LLC (with enclosures)
Dave Gerdeman- North Point Engineering (with enclosures)
Karen Miller- Vreba-Hoff Dairy Development, LLC (with enclosures)
Brian Daggy- Agricultural Environmental Consulting, LLC (with enclosure)



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NOTICE OF DECISION

Indiana Department of Environmental Management

Please be advised that the Indiana Department of Environmental Management (IDEM), has issued a Individual NPDES Permit Modification for Union-Go Dairy, LLC, which is located near the intersection of County Road 300 West and County Road 400 South in Randolph County, Indiana. The permit authorizes the construction of a new manure and wastewater storage system, a new freestall barn and the assessment and potential renovation of the existing manure storage system. The dairy will have an approved capacity of 1,972 dairy cows.

If anyone wishes to challenge this decision, IC 13-15-6-1 and IC 4-21.5-3-7 require that they file a petition for administrative review not later than fifteen (15) days after being served with this notice. Under IC 13-15-6-7(c) you are considered to be served with this notice when you are personally served with the notice or three (3) days after the notice is deposited in the United States mail and addressed to you, whichever occurs first. Your petition describing your intent to challenge the IDEM decision must be submitted to the Office of Environmental Adjudication, Indiana Government Center North, 100 North Senate Avenue, Room N501, Indianapolis, Indiana 46204-2200.

Your filing of a petition for administrative review is complete on the earliest of the following dates that apply to the filing: (1) The date the document is delivered to the Office of Environmental Adjudication (OEA), (2) The date of the postmark on the envelope containing the document, if the document is mailed to OEA by U.S. mail, or (3) The date on which the document is deposited with a private carrier, as shown by the receipt issued by the carrier, if the document is sent to the OEA by private carrier. This petition must include facts demonstrating that the petitioner is the applicant, a person aggrieved by the decision, or a person entitled to review by law.

Additionally, IC 13-15-6-2 requires that such petition for administrative review include: (1) The name and address of the person making the request, (2) The interest of the person making the request, (3) Identification of any persons represented by the person making the request, (4) The reasons, with particularity, for the request, (5) The issues, with particularity, proposed for consideration at the hearing, and (6) The permit terms and conditions which, in the judgment of the person making the request, would be appropriate.

Pursuant to IC 4-21.5-3-5(d), the Office of Environmental Adjudication will provide the petitioner or any person requesting notice with notice of pre-hearing conferences, preliminary hearings, hearing stays or orders disposing of the petition for review if a written request for such notice is submitted to the Office of Environmental Adjudication at the above address. If you have procedural or scheduling questions regarding your petition, you may contact OEA by dialing (317) 232-8591.

Questions regarding the technical aspects of the permit decision should be directed to Daniel Bruggen, by calling (800) 451-6027, press 0 and ask for extension 3-3554, or dial him direct at (317) 233-3554. Please bring this matter to the attention of persons you believe may have an interest in it.

**Indiana Department of Environmental Management
Response to Public Comments
Union-Go Dairy, LLC
NPDES CAFO Permit Application**

On October 12, 2007, Union-Go Dairy, LLC, submitted to the Indiana Department of Environmental Management (IDEM) an application for a National Pollutant Discharge Elimination System (NPDES) Permit Modification, Concentrated Animal Feeding Operation (NPDES CAFO) individual permit. This existing dairy is requesting to construct a new manure and wastewater collection and storage system, one freestall barn which can accommodate 322 cows, and the assessment and potential renovation of the existing lagoon. The dairy will be populated with 1,972 dairy cows once the new barn is constructed.

IDEM received public comments concerning this application both in writing, by phone, via emails, and during a public comment period. Similar comments have been consolidated and paraphrased into one comment for efficiency of response. The following responses have been prepared by IDEM staff to address the concerns expressed.

1. **Comment:** The liner in the existing manure lagoon has failed and IDEM should not approve the permit until it is fixed.

Response: Assessing the cause of the liner failure is part of the overall permit proposal. Constructing a new collection and storage system will allow for appropriate assessment and renovation of the existing storage lagoon.

2. **Comment:** Groundwater quality will be further impacted as a consequence of expanded dairy activities.

Response: The operation currently conducts a ground water monitoring system at the production area and plans to install additional ground water monitoring wells. This provides the ability to measure the groundwater quality in close proximity to any manure or wastewater storage structures. The wells identified in the application are piezometers, which will be utilized to determine ground water flow direction. The final locations of the ground water monitoring wells are depicted on page 2 of 10, from the plans received by IDEM on July 31, 2008. The facility will be required by IDEM to continue to sample all the ground water monitoring wells semi-annually as detailed in the plan received by IDEM on April 28, 2009. All ground water sampling and analysis results are being submitted to IDEM within sixty (60) days of sampling. The ground water monitoring results are available for review on the agency's web site in the virtual file cabinet section.

3. **Comment:** Several comments were received concerning airborne pollutants, odors, noise, and property values.

Response: IDEM is given the authority through legislation and the rules to regulate CAFOs based on water quality concerns. Other concerns relative to odors, property values, etc. are outside of IDEM's authority to address through the permitting process. Local land use ordinances must be relied upon to address those issues. There are currently no Indiana standards for odors. However, the US EPA is conducting a study of air emissions from animal feeding operations. The study will include what types of pollutants are present and the quantity released. Based on the results, EPA will give a recommendation on any permitting requirements that may be appropriate to address those emissions.

4. **Comment:** The dairy and manure application sites are within the Sparrow Creek, Eight Mile Creek and/or White River watersheds. How is the over-application of manure controlled by IDEM?

Response: Land application of the manure and wastewater in compliance with the permit conditions provides a high level of confidence that the potential of runoff and nutrient loss to surface waters will be minimized. These requirements include:

1. Monitor field nutrient levels as well as the manure nutrient content in order to land apply at agronomic rates.
2. Monitor rainfall predictions at least 24 hours in advance and 24 hours after any land application activities.
3. Do not land apply manure when the soil is saturated.
4. Implement and maintain a Soil Conservation Practice Plan on land application sites.
5. Manure application sites must be inspected prior to using to identify any locations where field tile damage allows storm water to directly enter the tile. Special setbacks from these areas must be observed
6. Maintain required setback distances from site features including field tile inlets, streams, ditches, ponds and wetlands.
7. Monitoring of field tiles that outlet under or bordering the land application sites during and after manure applications.
8. Document compliance with the above by keeping records for at least five years and made available to IDEM.

The Soil Conservation Practice Plan must be implemented and maintained on all manure application sites owned or controlled by the permittee. The plan must be written in accordance with USDA standards to minimize nutrient loss through leaching and runoff. The plan will address each field's limiting factors and what measures are needed to achieve the adopted performance standards. These measures are site specific and can include but are not limited to; timing of application (spring vs. fall), method of application, rate of application and the installation of erosion control practices and structures.

IDEM's Office of Water Quality, administers Indiana's water quality monitoring program. The 303d water quality assessment program provides a mechanism for IDEM to monitor water bodies within the state on a five year rotational basis. The results of the monitoring events are an inventory of water quality allowing the identification of waters being affected by current activities. These activities include negative water quality impacts from residential, municipal, industrial, agricultural and recreational areas. Sparrow Creek, Eight Mile Creek and The White River are included in this ongoing water quality monitoring program.

- 5. Comment:** Who will be testing household wells to assure area residents that their drinking water is safe to drink? Who will be responsible if contamination occurs in wells in the area surrounding the dairy?

Response: Monitoring wells at the site are located in a manner to provide early detection if a release from the lagoons enters ground water. If a release is detected the facility can correct the problem before it would impact a drinking water well. If a situation were to occur in which a drinking water well was impacted by the dairy, the dairy would be responsible.

IDEM encourage everyone using well water to test the quality of their water regardless of the location of activities near their property. Many residential features and activities in close proximity to a well, including malfunctioning septic tanks and leach fields, over application of lawn fertilizers/pesticides and improperly discarded household chemicals can be a source of well contamination. Residents may contact their County Health Department to learn the correct procedures to test well water quality.

- 6. Comment:** Why would IDEM consider issuing a new permit to Union-Go Dairy, LLC when the first permit issued is under appeal with the Office of Environmental Adjudication?

Response: On December 17, 2008, the Office of Environmental Adjudication issued a decision regarding the appeal of the first NPDES permit issued to Union-Go Dairy, LLC. The permit was upheld by the environmental law judge. During the appeal the permit was not "Stayed" and was therefore in effect.

- 7. Comment:** Why would IDEM consider issuing a new permit to Union-Go Dairy, LLC that has caused numerous environmental violations?

Response: IDEM's regulations cover a large range of issues pertaining to design, construction, and operation of CFOs/CAFOs. IDEM has taken the previous violations into consideration during the review process. Assuring the farm's commitment to resolve past violations and to avoid future ones was a factor in our consideration. The permit modification includes some new operating restrictions that do reflect past issues at this farm.

- 8. Comment:** We request a public hearing on the expansion of Union-Go Dairy, LLC.

Response: Two hearings were held on the initial permit to establish this facility. This draft permit modification was posted for a 30 day comment period. Given the hearings held on the original permit and the time and comments provided on the modification, IDEM believes a hearing is unnecessary to collect further comment on the permit. The design of the new facilities and the application itself meet the state standards for approval. The approval will allow for improvements to the manure and wastewater handling system. The additional freestall barn cannot be constructed and populated until the new manure collection and storage system is completed and functional. The applicant will conduct an assessment of the original manure storage system to determine its ultimate use, if any.